



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

April 16, 2021

OFFICE OF CONGRESSIONAL AND
INTERGOVERNMENTAL RELATIONS

The Honorable Carolyn B. Maloney
Chairwoman
Committee on Oversight and Reform
U.S House of Representatives
Washington, DC 20515

The Honorable James Comer
Ranking Member
Committee on Oversight and Reform
U.S. House of Representatives
Washington, DC 20515

The Honorable Gerald E. Connolly
Chairman
Subcommittee on Government Operations
Committee on Oversight and Reform
U.S House of Representatives
Washington, DC 20515

The Honorable Jody Hice
Ranking Member
Subcommittee on Government Operations
Committee on Oversight and Reform
U.S. House of Representatives
Washington, DC 20515

Dear Chairwoman Maloney, Ranking Member Comer, Chairman Connolly, and Ranking Member Hice:

On behalf of the U.S. Environmental Protection Agency (EPA), I am responding to your letter dated March 31, 2021, regarding EPA's policies and procedures for cooperating with EPA's Inspector General and Agency investigations into employee misconduct.

EPA's Office of Inspector General (OIG) serves as an independent and objective office within the Agency, preventing and rooting out fraud, waste, mismanagement, and abuse in EPA programs and operations. This important work enables us all to be more effective in achieving the Agency's mission. To carry out its statutorily required function, the OIG requires information and assistance from EPA managers and staff. Agency staff cooperate with the OIG to provide the OIG with access to personnel, facilities, and records or other information or material that is needed by the OIG to accomplish its mission. To that end, EPA has Coordination Procedures to enable Agency staff cooperation with OIG's work (issued in November 2017) and Audit Management Procedures (Manual 2750, issued on March 28, 2017). These documents are enclosed, along with an August 20, 2018 email from EPA's then-Administrator regarding cooperation with the OIG, an October 15, 2019 Memorandum from EPA's Chief Financial Officer to Agency senior officials outlining changes to the OIG's audit process, and an April 2, 2020 Memorandum from the OIG to EPA's Chief Financial Officer clarifying audit and evaluation procedures.

EPA requires all of its employees to adhere to the Agency Regulations on Employee Responsibilities and Conduct (40 CFR, Part 3) and to maintain levels of behavior and efficiency that conform to the highest ethical standards and promote the interest of the Agency and the federal service. Likewise, all managers and supervisors are responsible for maintaining a climate of constructive discipline within their organizations by good example and practice, clear instruction, fair and equal treatment of all employees, and firm and decisive leadership. It is longstanding EPA policy that primary emphasis be placed on preventing situations requiring disciplinary actions through effective employee-management relations and that when work performance and/or conduct are not maintained at acceptable levels, constructive corrective action be taken by responsible supervisors in a timely manner. EPA Order 3120.1, issued on September 26, 1985, outlines EPA's policies governing employee conduct and corrective disciplinary actions. This document is enclosed, as are EPA Order 3110.6B on Adverse Actions; EPA Order 3120.5 Addressing Research Misconduct; EPA Order 1400.1 on Preventing Violence in the Workplace; EPA Order 1400.1-1 Supplemental Guidance on Preventing Violence in the Workplace; EPA's Discipline Handbook; EPA's Standard Operating Procedures for Responsibilities and Procedures within EPA related to advice, consultation, legal review, and Agency representation in proceedings involving employee and labor management issues; and an Overview of EPA's Employee Assistance Program. EPA Order 4711, also enclosed, lays out the Agency's procedure for addressing allegations of harassment in the workplace and provides a consistent and effective procedure for responding to allegations of harassment.

Generally, administrative investigations into employee or official misconduct or disciplinary matters are performed by an employee's direct supervisor with assistance from a labor employee relations (LER) specialist. If misconduct involves an extant or likely Equal Employment Opportunity, Merit Systems Protection Board, or federal court case; harassment; and/or is severe enough to warrant a suspension of more than 14 days/removal, then the Agency's Office of General Counsel (OGC) will also participate in advising managers. Cases involving sexually explicit material on government equipment and/or systems; and/or potential criminal activity (illegal drug use, in particular) may trigger an additional investigation by the Agency's OIG. Administrative investigations involving a concurrent OIG investigation are separate but coordinated (to the extent coordination is appropriate) through regular meetings among LER, OGC, and OIG. The OIG handles its own investigation, and LER/OGC assists management with the administrative investigation.

In 2015, after some struggle with communications on high-profile cases that received congressional attention, officials from the Office of Mission Support (OMS, which includes LER), OGC, and OIG began meeting every two weeks to coordinate employee misconduct investigations and actions. The coordination process was memorialized in the Coordination Procedures agreement (referenced above and enclosed) in November 2017. During the coordination meetings, OMS and OGC are expected to report on what administrative actions EPA management has taken, if any, in response to completed Reports of Investigation or other referrals from the OIG. Generally, the OIG is then expected to update OMS and OGC on the status of misconduct matters it has accepted for investigation. The meetings facilitate information sharing and help the Agency and the OIG more promptly address employee misconduct.

EPA recognizes the importance of the Committee's need to obtain information necessary to perform its legitimate oversight functions and is committed to continuing to work with your staff on how best to accommodate the Committee's interests. If you have any further questions, please contact me, or your staff may contact Kristien Knapp in EPA's Office of Congressional and Intergovernmental Relations at Knapp.Kristien@epa.gov or (202) 564-3277.

Sincerely,

Robin H Richardson

Robin H. Richardson
Acting Associate Administrator